

Senate Amendment 3231

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1 1 Amend House File 808, as passed by the House, as
1 2 follows:
1 3 #1. Page 7, by inserting after line 9, the
1 4 following:
1 5 <ENERGY=RELATED PROVISIONS
1 6 Sec. _____. Section 476B.1, subsection 4, paragraph
1 7 c, Code 2005, is amended to read as follows:
1 8 c. Was originally placed in service on or after
1 9 July 1, ~~2004~~ 2005, but before July 1, ~~2007~~ 2008.
1 10 Sec. _____. Section 476B.3, Code 2005, is amended to
1 11 read as follows:
1 12 476B.3 CREDIT AMOUNT.
1 13 ~~1. Except as limited by subsection 2, the The wind~~
1 14 ~~energy production tax credit allowed under this~~
1 15 ~~chapter equals the product of one cent multiplied by~~
1 16 ~~the number of kilowatt-hours of qualified electricity~~
1 17 ~~sold by the owner during the taxable year.~~
1 18 ~~2. a. The maximum amount of tax credit which a~~
~~1 19 group of qualified facilities operating as one unit~~
~~1 20 may receive for a taxable year equals the rate of~~
~~1 21 credit times thirty-two percent of the total number of~~
~~1 22 kilowatts of nameplate generating capacity.~~
1 23 ~~b. However, if for the previous taxable year the~~
~~1 24 amount of the tax credit for the group of qualified~~
~~1 25 facilities operating as one unit is less than the~~
~~1 26 maximum amount available as provided in paragraph "a",~~
~~1 27 the maximum amount for the next taxable year shall be~~
~~1 28 increased by the amount of the previous year's unused~~
~~1 29 maximum credit.~~
1 30 Sec. _____. Section 476B.5, Code 2005, is amended by
1 31 striking the section and inserting in lieu thereof the
1 32 following:
1 33 476B.5 DETERMINATION OF ELIGIBILITY.
1 34 1. An owner may apply to the board for a written
1 35 determination regarding whether a facility is a
1 36 qualified facility by submitting to the board a
1 37 written application containing all of the following:
1 38 a. Information regarding the ownership of the
1 39 facility including the percentage of equity interest
1 40 held by each owner.
1 41 b. The nameplate generating capacity of the
1 42 facility.
1 43 c. Information regarding the facility's initial
1 44 placement in service.
1 45 d. Information regarding the type of facility.
1 46 e. A copy of an executed power purchase agreement
1 47 or other agreement to purchase electricity upon
1 48 completion of the project.
1 49 f. Any other information the board may require.
1 50 2. The board shall review the application and
2 1 supporting information and shall make a preliminary
2 2 determination regarding whether the facility is a
2 3 qualified facility. The board shall notify the
2 4 applicant of the approval or denial of the application
2 5 within thirty days of receipt of the application and
2 6 information required. If the board fails to notify
2 7 the applicant of the approval or denial within thirty
2 8 days, the application shall be deemed denied. An
2 9 applicant who receives a determination denying an
2 10 application may file an appeal with the board within
2 11 thirty days from the date of the denial pursuant to
2 12 the provisions of chapter 17A. In the absence of a
2 13 timely appeal, the preliminary determination shall be
2 14 final. If the application is incomplete, the board
2 15 may grant an extension of time for the provision of
2 16 additional information.
2 17 3. A facility that is not operational within
2 18 eighteen months after issuance of an approval for the
2 19 facility by the board shall cease to be a qualified
2 20 facility. A facility that is granted and thereafter
2 21 loses approval may reapply to the board for a new
2 22 determination.
2 23 4. The maximum amount of nameplate generating
2 24 capacity of all qualified facilities the board may

2 25 find eligible under this chapter shall not exceed four
2 26 hundred fifty megawatts of nameplate generating
2 27 capacity.
2 28 5. An owner shall not be an owner of more than two
2 29 qualified facilities.
2 30 Sec. _____. Section 476B.6, Code 2005, is amended by
2 31 striking the section and inserting in lieu thereof the
2 32 following:
2 33 476B.6 TAX CREDIT CERTIFICATE PROCEDURE.
2 34 1. a. To be eligible to receive the wind energy
2 35 production tax credit, the owner must first receive
2 36 approval of the board of supervisors of the county in
2 37 which the qualified facility is located. The
2 38 application for approval may be submitted prior to
2 39 commencement of the construction of the qualified
2 40 facility but shall be submitted no later than the
2 41 close of the owner's first taxable year for which the
2 42 credit is to be applied for. The application must
2 43 contain the owner's name and address, the address of
2 44 the qualified facility, and the dates of the owner's
2 45 first and last taxable years for which the credit will
2 46 be applied for. Within forty-five days of the receipt
2 47 of the application for approval, the board of
2 48 supervisors shall either approve or disapprove the
2 49 application. After the forty-five-day limit, the
2 50 application is deemed to be approved.
3 1 b. Upon approval of the application, the owner may
3 2 apply for the tax credit as provided in subsection 2.
3 3 In addition, approval of the application is acceptance
3 4 by the applicant for the assessment of the qualified
3 5 facility for property tax purposes for a period of
3 6 twelve years and approval by the board of supervisors
3 7 for the payment of the property taxes levied on the
3 8 qualified property to the state. For purposes of
3 9 property taxation, the qualified facility shall be
3 10 centrally assessed and shall be exempt from any
3 11 replacement tax under section 437A.6 for the period
3 12 during which the facility is subject to property
3 13 taxation. The property taxes to be paid to the state
3 14 are those property taxes which make up the
3 15 consolidated tax levied on the qualified facility and
3 16 which are due and payable in the twelve-year period
3 17 beginning with the first fiscal year beginning on or
3 18 after the end of the owner's first taxable year for
3 19 which the credit is applied for. Upon approval of the
3 20 application, the board of supervisors shall notify the
3 21 county treasurer to state on the tax statement which
3 22 lists the taxes on the qualified facility that the
3 23 amount of the property taxes shall be paid to the
3 24 department. Payment of the designated property taxes
3 25 to the department shall be in the same manner as
3 26 required for the payment of regular property taxes and
3 27 failure to pay designated property taxes to the
3 28 department shall be treated the same as failure to pay
3 29 property taxes to the county treasurer.
3 30 c. Once the owner of the qualified facility
3 31 receives approval under paragraph "a", subsequent
3 32 approval under paragraph "a" is not required for the
3 33 same qualified facility for subsequent taxable years.
3 34 2. An owner of a qualified facility may apply to
3 35 the board for the wind energy production tax credit by
3 36 submitting to the board all of the following:
3 37 a. A completed application in a form prescribed by
3 38 the board.
3 39 b. A copy of the determination granting approval
3 40 of the facility as a qualified facility by the board.
3 41 c. A copy of a signed power purchase agreement or
3 42 other agreement to purchase electricity.
3 43 d. Sufficient documentation that the electricity
3 44 has been generated by the qualified facility and sold
3 45 to a purchaser.
3 46 e. Any other information the board deems
3 47 necessary.
3 48 3. The board shall notify the department of the
3 49 amount of kilowatt-hours generated and purchased from
3 50 a qualified facility. The department shall calculate
4 1 the amount of the tax credit for which the applicant
4 2 is eligible and shall issue the tax credit certificate
4 3 for that amount or notify the applicant in writing of
4 4 its refusal to do so. An applicant whose application
4 5 is denied may file an appeal with the department

4 6 within sixty days from the date of the denial pursuant
4 7 to the provisions of chapter 17A.

4 8 4. Each tax credit certificate shall contain the
4 9 owner's name, address, and tax identification number,
4 10 the amount of tax credits, the first taxable year the
4 11 certificate may be used, the type of tax to which the
4 12 tax credits shall be applied, and any other
4 13 information required by the department. The tax
4 14 credit certificate shall only list one type of tax to
4 15 which the amount of the tax credit may be applied.
4 16 Once issued by the department, the tax credit
4 17 certificate shall not be terminated or rescinded.

4 18 5. If the tax credit application is filed by a
4 19 partnership, limited liability company, S corporation,
4 20 estate, trust, or other reporting entity all of the
4 21 income of which is taxed directly to its equity
4 22 holders or beneficiaries, for the taxes imposed under
4 23 chapter 422, division II or III, the tax credit
4 24 certificate shall be issued directly to equity holders
4 25 or beneficiaries of the applicant in proportion to
4 26 their pro rata share of the income of such entity.
4 27 The applicant shall, in the application made under
4 28 this section, identify its equity holders or
4 29 beneficiaries, and the percentage of such entity's
4 30 income that is allocable to each equity holder or
4 31 beneficiary. If the tax credit application is filed
4 32 by a partnership, limited liability company, S
4 33 corporation, estate, trust, or other reporting entity,
4 34 all of whose income is taxed directly to its equity
4 35 holders or beneficiaries for the taxes imposed under
4 36 chapter 422, division V, or under chapter 432, the tax
4 37 credit certificate shall be issued directly to the
4 38 partnership, limited liability company, S corporation,
4 39 estate, trust, or other reporting entity.

4 40 6. The department shall not issue a tax credit
4 41 certificate if the facility approved by the board as a
4 42 qualified facility is not operational within eighteen
4 43 months after the approval is issued.

4 44 7. Once a tax credit certificate is issued
4 45 pursuant to this section, the tax credit may only be
4 46 claimed against the type of tax reflected on the
4 47 certificate.

4 48 8. A tax credit certificate shall not be used or
4 49 attached to a return filed for a taxable year
4 50 beginning prior to July 1, 2006.

5 1 Sec. _____. Section 476B.7, unnumbered paragraph 1,
5 2 Code 2005, is amended to read as follows:

5 3 Wind energy production tax credit certificates
5 4 issued under this chapter may be transferred to any
5 5 person or entity. Within thirty days of transfer, the
5 6 transferee must submit the transferred tax credit
5 7 certificate to the ~~board~~ department along with a
5 8 statement containing the transferee's name, tax
5 9 identification number, and address, and the
5 10 denomination that each replacement tax credit
5 11 certificate is to carry and any other information
5 12 required by the department. Within thirty days of
5 13 receiving the transferred tax credit certificate and
5 14 the transferee's statement, the ~~board~~ department shall
5 15 issue one or more replacement tax credit certificates
5 16 to the transferee. Each replacement certificate must
5 17 contain the information required under section 476B.6
5 18 and must have the same effective taxable year and the
5 19 same expiration date that appeared in the transferred
5 20 tax credit certificate. Tax credit certificate
5 21 amounts of less than the minimum amount established by
5 22 rule of the board shall not be transferable. A tax
5 23 credit shall not be claimed by a transferee under this
5 24 chapter until a replacement tax credit certificate
5 25 identifying the transferee as the proper holder has
5 26 been issued.

5 27 Sec. _____. Section 476B.8, Code 2005, is amended to
5 28 read as follows:

5 29 476B.8 USE OF TAX CREDIT CERTIFICATES.

5 30 To claim a wind energy production tax credit under
5 31 this chapter, a taxpayer must attach one or more tax
5 32 credit certificates to the taxpayer's tax return. A
5 33 tax credit certificate shall not be used or attached
5 34 to a return filed for a taxable year beginning prior
5 35 to July 1, ~~2005~~ 2006. The tax credit certificate or
5 36 certificates attached to the taxpayer's tax return

5 37 shall be issued in the taxpayer's name, expire on or
5 38 after the last day of the taxable year for which the
5 39 taxpayer is claiming the tax credit, and show a tax
5 40 credit amount equal to or greater than the tax credit
5 41 claimed on the taxpayer's tax return. Any tax credit
5 42 in excess of the taxpayer's tax liability for the
5 43 taxable year may be credited to the taxpayer's tax
5 44 liability for the following seven taxable years or
5 45 until depleted, whichever is the earlier.
5 46 Sec. _____. Section 476B.9, Code 2005, is amended to
5 47 read as follows:
5 48 476B.9 REGISTRATION OF TAX CREDIT CERTIFICATES.
5 49 ~~The board shall, in conjunction with the~~
5 50 ~~department, shall~~ develop a system for the
6 1 registration of the wind energy production tax credit
6 2 certificates issued or transferred under this chapter
6 3 and a system that permits verification that any tax
6 4 credit claimed on a tax return is valid and that
6 5 transfers of the tax credit certificates are made in
6 6 accordance with the requirements of this chapter. The
6 7 tax credit certificates issued under this chapter
6 8 shall not be classified as a security pursuant to
6 9 chapter 502.
6 10 Sec. _____. NEW SECTION. 476B.10 RULES.
6 11 The department and the board may adopt rules
6 12 pursuant to chapter 17A for the administration and
6 13 enforcement of this chapter.>
6 14 #2. Title page, line 3, by inserting after the
6 15 word <resources> the following: <, and provisions
6 16 relating to a wind energy production tax credit>.
6 17 #3. By renumbering as necessary.
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